

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 15.03.2021

CORAM

THE HON'BLE Mr.JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.No.4309 of 2021

1.N.Saravanan
2.M.Sakthi

... Petitioners

Vs.

State represented by
The Inspector Of Police,
Palacode Police Station,
Dharmapuri District.
(Cr.No.1565 of 2020)

.... Respondent

Prayer: Criminal Original Petition filed under Section 438 of Cr.P.C. seeking to enlarge the petitioners on bail in the event of their arrest in Crime No.1565 of 2020 pending investigation on the file of the respondent police.

For Petitioners : Mr.K.Suthan

For Respondent : Mr.T.Shunmua Rajeshwaran
Government Advocate (Crl.Side)

O R D E R

(The case has been heard through video conference)

The petitioners who apprehend arrest at the hands of the respondent police for the offence punishable under Section 379 of IPC in Crime No.1565 of 2020 on the file of the respondent police, seek anticipatory bail.

2. The case of the prosecution as per the defacto complainant, Tmt.Bhuvaneswari, Assistant Geologist, Office of the Deputy Director Geography and Mining, Dharmapuri is that on 31.08.2020 at about 12.30 p.m., while she was conducting vehicle check up at Palacode range, the tipper lorry bearing Regn. No.TN 29 BU 1051 was intercepted and when the vehicle was searched, it was found to transport 5 units of M-sand without any transit permit and during enquiry, A1/first petitioner had escaped from the scene of occurrence. Based on the complaint, the Inspector of Police had seized the lorry along with 5 units of M-sand under the seizure mahazar.

3. The learned counsel appearing for the petitioners would submit that this is the second application for anticipatory bail and the earlier application was dismissed by this Court in Crl.O.P.No.15249 of 2020 by order dated 28.09.2020. He would submit that the petitioners were granted transit pass in S.No.1892 for transporting, however, they have been falsely implicated in this case. Hence, he prays for grant of anticipatory bail.

4. The learned Government Advocate (Crl. Side) would vehemently oppose stating that the petitioners had illegally transported M-sand without any valid permit. He would further submit that the alleged transit pass in S.No.1892 had been granted to transport 6 units of Jelly, whereas by using the same, the petitioners have transported 5 units of M-sand illegally.

5. This Court on the earlier occasion in Crl.O.P.No.15249 of 2020 by order dated 28.09.2020, following the orders passed by this Court in a batch of applications in Crl.O.P.No.13334 of 2020 dated 03.09.2020 had dismissed the earlier application expressing the opinion that the offenders despite several orders passed by various Benches of this Court regarding illegal sand mining and knowing fully well about the evil consequences affecting the environment and society at large and the implications thereon are indulging in the offences of illegal quarrying/mining, theft and smuggling of sand and minerals and that finding that the case comes under the category of cases of large magnitude affecting and impacting livelihood of a very large number of people knowingly and unknowingly, had dismissed the earlier application. Subsequently, the order of this Court in Crl.O.P.No.13334 of 2020 and Batch etc. dated 03.09.2020 was clarified by the Hon'ble Supreme Court and the Hon'ble Supreme Court had not agreed with the broad sweep of the observation made by this Court in Paragraph 27 of the order in Crl.O.P.No.13334 of 2020 and connected matters decided on 03.09.2020 and had directed that the Court should take into consideration the role assigned to the person on case to case basis.

6. Accordingly, this Court takes into consideration, the role assigned to the petitioners in the present case. In this case on hand, it is seen that the first petitioner is the driver and the 2nd petitioner is the owner of the vehicle bearing Regn.No.TN 29 BU 1051 and that the petitioners have illegally transported 5 units of M-sand by using the transit pass granted to transport Jelly and thereby, the petitioners have commercially exploited the natural resources. Therefore, this Court is not inclined to grant anticipatory bail to the petitioners.

7. Accordingly, this Criminal Original Petition is dismissed.

-sd/-
15/03/2021

This order, on being produced, be punctually observed and carried
into execution by all concerned
TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

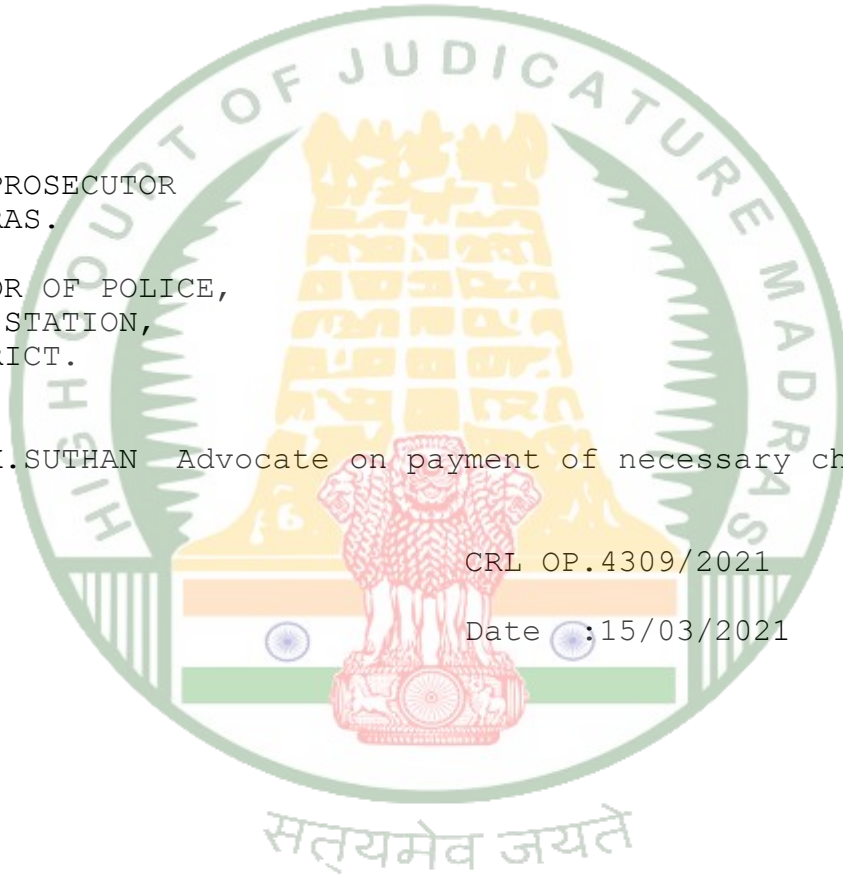
2 THE INSPECTOR OF POLICE,
PALACODE POLICE STATION,
DHARMAPURI DISTRICT.

CC to M/S.K.SUTHAN Advocate on payment of necessary charges

CRL OP.4309/2021

Date :15/03/2021

rvr 31/03/2021



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